

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JASON COBB,

Plaintiff,

v.

JPMORGAN CHASE, et al.,

Defendants.

No. C 13-01955 JSW

**SECOND ORDER RE MOTION  
TO DISMISS FILED BY  
DEFENDANTS NERIO AND  
FADEM AND NOTICE THAT  
FAILURE TO COMPLY WILL  
RESULT IN DENIAL WITHOUT  
PREJUDICE**

On August 30, 2013, Defendants Ron Nerio and BJ Fadem filed a motion to dismiss for failure to state a claim, which is noticed for hearing on November 15, 2013. (Docket No. 153.) On October 4, 2013, the Court issued an Order in which it noted that although the notice of the motion refers to a memorandum of points and authorities, it did not appear that Defendants actually e-filed that document. The Court also noted that it had not received a chambers copy of the motion or the memorandum of points and authorities.

Because Plaintiff opposed the motion and responded to arguments that Defendants appeared to have raised in their memorandum of points and authorities, the Court directed Defendants to electronically file the memorandum of points and authorities by October 11, 2013. Because Plaintiff had opposed the motion, the Court stated that Plaintiff should not file a new opposition, and because Defendants had not filed a reply within the time allowed by the Northern District Civil Local Rules, the Court stated that a reply would not be permitted.

Defendants have failed to comply with the Court's Order and have not filed their memorandum of points and authorities. Because Plaintiff has responded to the arguments raised in that motion, the Court shall give Defendants one **final** opportunity to electronically file the

1 memorandum of points and authorities in support of their motion to dismiss. **Defendants shall**  
2 **electronically file their memorandum by 12:00 p.m. on Wednesday, October 16, 2013.**  
3 **Once again, because Plaintiff has already responded to the Defendants' motion (Docket**  
4 **No. 174), he shall not file any further opposition brief. In addition, because the time for**  
5 **filing a reply has passed, the Defendants shall not be permitted to file a reply.**

6 Once the Defendants have electronically filed their memorandum of points and  
7 authorities, the matter shall be deemed submitted. If the Court determines the motion is suitable  
8 for disposition without oral argument, it shall notify the parties in advance of the hearing  
9 scheduled for November 15, 2013. **If Defendants fail to file their memorandum of points**  
10 **and authorities by 12:00 p.m. on October 16, 2013, the Court shall deny the motion**  
11 **without prejudice.**

12 **IT IS SO ORDERED.**

13 Dated: October 15, 2013

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16 JEFFREY S. WHITE  
17 UNITED STATES DISTRICT JUDGE  
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